



PLANNING COMMISSION STAFF REPORT JUNE 29, 2006

Project:	PURPLE LOTUS - (PLN2003-00313)
Proposal:	To consider a Conditional Use Permit application and Preliminary Grading Plan for a 55,560 square foot Buddhist temple (Purple Lotus Temple) with living quarters for 120 persons (monks and guests) and a maximum capacity of 150 persons in the main hall (water ceremony hall, cafeteria at same time) and a 32,400 square foot institute (Dharma Institute) with a capacity of 250 students (consisting of adults and high school students), including quarters for 50 students.
Recommendation:	Approve Preliminary Grading Plan and Conditional Use Permit, subject to findings and conditions of approval
Location:	The property is located on the south side of Fox Avenue, (approximately 205' south of Alvarado Niles Boulevard), south of BART and Union Pacific railways at the Union City / Fremont city limits in the Niles Planning Area). APN: 507 003001700, 507003001800, 507 003001900, 507 003002000, 507 003002100, 507 003002200 (See aerial photo next page)
Area:	55,560 and 32,400 square foot proposed buildings on 5.5-acre lot
People:	Purple Lotus Society, Applicant & Owner Alfred Wang, Agent of Applicant Chuck Ludwig, Fremont Engineers Nancy Minicucci, Staff Planner (510) 494-4476; nminicucci@ci.fremont.ca.us
Environmental Review:	An Initial Study and Draft Mitigated Negative Declaration have been prepared and circulated for this project.
General Plan:	Existing: Very Low Density Residential (1 to 3 dwelling units per acre), Foot and Bicycle Trail, Trailhead
Zoning:	Existing: R-1-40 (Single Family Residential District)

EXECUTIVE SUMMARY:

The applicant proposes to construct two new religious buildings on the property: a 55,560 square foot Buddhist temple (Purple Lotus Temple) and a 32,400 square foot institute (The Dharma Institute). Four prayer booths will be erected along the perimeter of the parking area (one on each side) along with four 'Stupa' structures (sacred objects) at each corner of the property. The prayer booths and Stupas will be part of a proposed prayer walk path that surrounds the two new buildings. An array of planting materials is proposed for the landscaping of the property, which will be surrounded by a perimeter wall.

Figure 1: Aerial Photo (2002) of Project Site and Surrounding Area.



SURROUNDING LAND USES: North: Public easement between Fox / Alvarado Niles Blvd & BART tracks
South: Parking lot for Quarry Lakes Regional Recreation area
East: Parking lot for Quarry Lakes Regional Recreation area
West: Acreage that is undeveloped / Route 84 alignment

BACKGROUND AND PREVIOUS ACTIONS:

According to a series of topographic maps dating back to 1889, aerial photographs dating back to 1939 and a recent site reconnaissance, the subject property has remained undeveloped to date. The property was most likely used for agricultural and grazing purposes. The subject property is currently covered with ground vegetation. There are overhead utilities running along the western property line. The western property line also is part of the boundary line separating the City of Union City and the City of Fremont.

In August 1992, a five lot residential subdivision (Tract 6095) was recorded for this site (Lots 1 through 5 and common area Lot A). Since then, the property was sold to the Purple Lotus Society for the development of the Temple and the Institute. A reversion of acreage and subsequent Parcel Map application will also be required should the Conditional Use Permit be approved since the project site is currently configured as a five lot residential subdivision.

On June 9, 2005 this Conditional Use Permit and Preliminary Grading application was before the Planning Commission but was continued to a date uncertain to provide the opportunity for the applicant and the City of Union City to revise the existing easement agreement pertaining to the access to the subject property. Since then, the City of Union City and the Purple Lotus Society have agreed on terms to amend and replace the existing easement upon satisfaction of certain conditions and, in the meantime, to issue a license for the use of the private road entrance for the construction of the school and temple facility on the terms and conditions. A copy of the agreement can be found in the Planning Commissioner's packets as an informational item. The City of Union City is supportive of the project and is not requesting any additional conditions of approval apart from this agreement.

Route 84 Realignment Project in Fremont and Union City – Conceptual Approval of the Memorandum of Understanding (MOU) with Caltrans and the Cities of Union City and Fremont have been approved which define the conditions for the delivery and funding of Option 2 and the I-880/Mission Boulevard Interchange Completion Project. Option 2 calls for a four-lane roadway connecting Mission Boulevard in Union City to Paseo Padre Parkway in Fremont. The east- west artery also would widen parts of Paseo Padre Parkway and Decoto Road to six lanes each. On April 2006, the Fremont City Council approved the memorandum of understanding for the Route 84 extension and the funding for the initiation and completion of the environmental document. It is anticipated that the Fox Avenue entrance to this project site would need to be realigned in the future if and when Route 84 is constructed. The applicant is aware of this possibility.

PROJECT DESCRIPTION:

The 5.5-acre site is designed, as described by the project architect, to create harmony between the natural environment and the proposed development while symbolically representing both the Buddhist tradition and Feng Shui principals. According to the applicant, the Temple is designed to be the backdrop for the activities surrounding the site while providing an opportunity for all to encounter Buddha and Buddhism. The design intent is to also maximize the view toward the adjacent Quarry Lakes Regional Park. The overall layout of the site is influenced by the Feng Shui practice where all the main entries are facing south for prosperity and the quiet and noisy activity are placed on opposite ends of the building.

The project consists of the construction of two main buildings: the Purple Lotus Temple and the Dharma Institute both associated with the Practice of True Buddha's School (TBS) Dharma. Several structures scattered along the perimeter of the project site, described as prayer booths and 'Stupas' (sacred objects) are also proposed. The following section will describe each building and/or accessory structures in greater detail.

The Purple Lotus Temple

The Purple Lotus Temple is proposed to be 55,560 square foot Buddhist temple. The proposed hours of operation for the Purple Lotus Temple are 9:00 am to 6:00 pm on Mondays to Fridays and 10:00 am to 4:00 pm on the weekends, plus group practice will occur on Saturday night between 8:00 pm to 10:00 pm. The Temple will also host various praying ceremonies 3 to 4 times a month. The proposed activities will include meditation sessions, annual purification rituals, praying and blessing ceremonies (twice a year), group practice (purification, enrichment, subjudication, and attraction), fire offering ceremony and water offering ceremonies. Currently 100 to 125 followers participate in the praying ceremonies and according to the applicant the Temple has no intention of increasing the frequency of either the ceremonies or the amount of people. The applicant anticipates 20 to 40 visitors per day. The Purple Lotus Temple at the San Bruno site, which is approximately 4,000 square feet, has 8 to 12 visitors on a daily basis.

The applicant is proposing to construct dormitory spaces (40 single and family rooms) for a maximum capacity of overnight stays of 120 persons (monks, volunteers and guests). The Purple Lotus Society has grown from one monk to sixteen monks in seven years. A total of 27 monks, who would be using the dormitory spaces, are projected by the year of 2007. Overnight guests are allowed only during annual ceremonies held in February / March or September / October. Twenty-five guests are anticipated during each of those times. The Temple quarters are intended to provide shelter for the monks, volunteers and apprentices who would be living on site during the study of the TBS practice. The applicant has stated that individuals will not be allowed to own any kind of motor vehicles and that the Purple Lotus Society will be providing all the transportation for the monks, volunteers and apprentices.

The applicant also proposes four classrooms, television / entertainment rooms, storage rooms, and a cafeteria, offices for the instructors and a water ceremony hall and other halls (protector, purification, enrichment, spirit and fire offering). An outdoor deck is also proposed on the second floor of the building.

The Main Exhibition Hall is designed for interaction between the visitors and the daily users so they 'can co-exist in harmony'. A maximum capacity totaling 150 persons will be allowed in the Main Hall, water ceremony hall, the other halls (protector, purification, enrichment, spirit and fire) and cafeteria at the same time. It should be noted that based on Buddhist tradition, the applicant advises that the practice does not allow two Masters or two different types of praying / rituals to be held simultaneously. Therefore, the dedicated special halls, which are all smaller than the Main Hall, are never used at the same time and only one dedicated room is chosen for the main purpose of the ceremony. According to the applicant, the Main Hall is dedicated to show the basic ceremony / ritual of TBS and is intended to present the rich culture amenity of Vajrayana through statues and hand painted drawings.

The Dharma Institute

The Dharma Institute is designed for future monks and apprentices so they can study under the direction of the Master and Grand Master. The proposed Dharma Institute is proposed to be 32,400 square foot in size. The proposed hours of operation for the Dharma Institute are 7:30 am to 6:00 pm on Mondays to Fridays and by appointment only during the weekend.

According to the applicant, educational activities for teaching and instructing principals of True Buddha School's practice (TBS), annual performance by students to demonstrate art, chanting, reciting and ritual of the True Buddha School will be performed at the Dharma Institute. The maximum number of students that will be allowed are 250 with only 50 students residing on the site. The typical length of studies is between 1 to 3 years. Once a month, the Purple Lotus Society will provide community oriented programs with a maximum of fifty attendees at a time.

Due to Buddhism's reincarnation belief, the applicant advises that the Dharma Institute considers all ages for enrollment. Although it is proposed that the Institute will provide general education for high school at the proposed site, all middle and elementary school students will have general education at the present Union City facility. According to the applicant, at this time no students are expected to go to Fremont public schools. All transportation will be provided by the Purple Lotus Society to and from the existing elementary and middle school facility in Union City. No private vehicles will be allowed.

The Dharma Institute will consist of classrooms (nineteen in total), associated restrooms, offices, and a café, as well as twenty additional dormitory spaces (single and family suites). One multi-purpose room for indoor sport activities (such as badminton, volleyball and basketball), community oriented programs and student performance is also proposed for a maximum occupancy of 300 people.

Prayer Booths

Four structures, measuring eight feet by eight feet, and eight feet in height, are proposed on the project site. The Prayer Booths are proposed at the rear of the property and the remaining two are proposed in the side yards. The Prayer Booths will be part of a path that is proposed to circle the two main buildings providing users the opportunity to walk, bow, and rest. According to the applicant, the Prayer Booth is designed for the practioner to recite their choice of 'sutra' to fulfill one's particular needs.

Stupas

Stupas are proposed to be situated at the four corners of the site. The applicant is proposing Stupas that will be 12 feet in height and 15 feet in length. The applicant has not solidified that actual design of each Stupa and therefore, the designs are only conceptual at this time. The Stupas are designed to provide an opportunity for visitors and practioners to enjoy the tradition of Vajrayanna Buddhism. The Stupa will have various forms and directions (e.g. elements of life; earth, wind, fire and water etc.) and will also have different meanings and significance. The main purpose of the Stupas is to enshrine the sacred objects. According to the applicant, the first basic function of the Stupa is to keep the memory of the great teacher alive by providing a focal point for commemorative activities. The second function of the Stupa is to serve to bond all practioners who view the structure as a powerful instrument for spiritual transformation. Staff will work with the applicant during the Development Organization (D.O.) process to ensure that the height and design of the proposed Stupas meet the zoning regulations.

PROJECT ANALYSIS:

General Plan Conformance:

The General Plan land use designation for the project site is Low Density Residential (1 to 3 dwelling units per acre). Symbols for a Foot and Bicycle Trail and a Trailhead are shown in the vicinity of the project site. The following General Plan goals and policies are applicable to the proposed project. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

HOUSING GOAL 1: Conservation and enhancement of existing residential neighborhoods

Policy LU 1.1: Schools, Childcare Centers, Public and Semi-Public Facilities (e.g., churches) and Nursing Care facilities. These uses may be allowed, although conditions may be established to limit the impacts of these uses on residents.

Analysis: The above land use policy does allow the proposed uses under the residential land use designation. The proposed development is designed to limit impacts on the surrounding neighborhood and is subject to the attached conditions of approval. As mentioned above, a Trailhead symbol is shown on the General Plan on / near the project site. The existing Quarry Lakes Regional Park provides restrooms and parking for a trailhead. No plan has been adopted that would incorporate the project site in the adjacent Quarry Lakes Regional Park. The proposed religious facility is in conformance with the General Plan.

Zoning Regulations:

The property is zoned R-1-40, Single Family Residential District. A religious facility requires a conditional use permit in standard zoning districts where such a use is allowed. The applicant is proposing a Conditional Use Permit for the proposed development, along with a Preliminary Grading Plan. The applicant meets all setbacks and height requirements set forth in the Fremont Municipal Code. Accessory structures, such as the Stupas and Prayer Booths, will be required to meet the maximum allowable heights allowed in the R-1-40 district, which is 12 feet.

In August 1992, a five lot residential subdivision (Tract 6095) was recorded for this site (Lots 1 through 5 and common area Lot A). Since then, the property was sold to the Purple Lotus Society for the development of the Temple and the Institute. A reversion of acreage to combine the lots back into just one parcel and subsequent Parcel Map application will also be required should the Conditional Use Permit be approved since the project site is currently configured as a five lot residential subdivision.

Parking:

The standard parking requirement is one space per five seats in the main worship space for religious facilities with more than 150 seats and located on an arterial. Religious facilities with more than 150 seats and not located on an arterial are required to have 1 parking space for each 3 seats. This project site is located on a private street.

Due to the uniqueness of the project description and the variety of uses proposed for the project site (multi-purpose room, classrooms) project-specific parking calculations were used to establish an adequate amount of parking spaces with all uses in mind. It should be noted that the Purple Lotus

Society will be providing busing service to all residents, monks, volunteers and employees visiting or living on the property. Dormitory residents will not be allowed to own their own vehicles. As mentioned earlier, the Buddhist practice of the Purple Lotus Society does not allow having two ceremonies performed at the same time, and therefore the maximum occupancy of the Main Hall and all of the other halls and cafeteria is 150. The project applicant has stated that the maximum number of people that will be on site (both buildings) will be 400 people. Two hundred-fifty (250) of those four hundred people (400) will be provided transportation through the Purple Lotus Society.

The proposed parking space tabulation indicates that the project complies with the City's parking requirements:

DHARMA INSTITUTE	Maximum occupancy	Parking Calculation	Parking Required
Multi-Purpose Room	300	1 parking space for every 4 seats	75
Classrooms	250 + 15 employees	1 parking space for every employee + 1 parking space per seven student classrooms seats)	41
PURPLE LOTUS TEMPLE	Maximum occupancy	Parking Calculation	Parking Required
Main Hall & other halls	150	1 parking space for every 5 seats	30
Cafeteria	150 occupancy + employees	1 parking space for every 3.5 seats + 10% for employees	48
Classrooms	50 + 19 employees	1 parking space for every employee + 1 parking space per seven student classrooms seats)	26
Total Required by COF and provided by the applicant			223

Design Analysis:

Architecture:

The proposed architectural style, as described by the applicant, is a blend of contemporary American and traditional Tibetan architectural elements with an emphasis on applying regionally available materials and modern construction method. The design concept for the Temple and the Institute embodies Buddhism's basic philosophy of Affinity, Karma, Reincarnation and Enlightenment (or Nirvana) with Enlightenment as the final goal. According to the applicant, in pursuing Enlightenment, Compassion and Wisdom are the two major factors for achievement and can be obtained through their daily lives and their physical senses, e.g. walking, eating, talking, speaking, hearing, touching and visualization. A typical day of a practioner revolves around reciting the mantra, sutra, cultivation and group practice. The proposed architectural designs offers all of these chances in the interior, exterior and the surrounding for not just practioners but also for the visitors regardless of being aware of the merit and wealth that was obtained through unintentional reading of the Buddhas name, for instance, on the

perimeter wall, or by just circling around the Buddha. As mentioned earlier in the report, the overall layout of the site is influenced by the Feng Shui practice where all the main entries are facing south for prosperity and the quiet and noisy activity are placed on opposite ends of the building. The open space as described by the applicant is designed to promote healthy living and to provide a place for community activities. The layout of the site also maximizes the view toward the adjacent Quarry Lakes Regional Park without impacting the existing traffic pattern.

The Purple Lotus Temple

As mentioned earlier in the report, the proposed Temple is both contemporary in Western design yet traditional Buddhist elements are reflected through the use of various building forms, building planes, colors and materials. The main building footprint is very angular in form and provides for a variety of building planes and heights while introducing circular elements such as rounded archways through the entry, a circular view window, a domed metal roof and a circular relic pagoda. The project architect advises that the two-story building is designed with Buddhist symbology in mind. For instance, the use of colors for the building such as the proposed matte midnight black CMU brick for the bulkhead and alabaster white stucco finish for the remaining portions of the building walls symbolizes a lotus flower (purity) growing out of mud (darkness). The Stupa at the top of the Main Hall houses the Relic Pagoda, which represents the highest achievement a human being can achieve, is meant to provide a symbol for visitors and practitioners to show their humbleness by bowing, or just simple hand gesture before the Relic. The Stupa / Relic Pagoda measures approximately 14 feet in height and 9 feet in width and will be made of concrete and will be gold / bronze in (non-reflective) in color.

The main entrance to the Temple includes a curved entry element with a balcony and a skylight and includes access to the domed Main Hall area. The domed roof is approximately 60 feet wide and at the highest point measures 42 feet in height and is proposed to be constructed of non-reflective metal with a copper penny finish color. The remaining roof areas will also be made of metal with a colonial red finish. Two outdoor enclosed decks are also proposed on the second floor of the building. The open design also pours out into the outdoor 'plaza' with the Temple acting as a backdrop to the natural environment. A colonnade running along three sides of the entry plaza is designed for pedestrian flow and provides an opportunity for users to view the plaza area and appreciate the proposed landscaping area. The columns will be round in design and white in color with a lotus flower design at each base. Four bronze wall plaques are proposed in total for the front and rear building elevations.

The proposed glazing for all of the windows and doors will be clear with an anodized finish. The main entry door will be made of stainless steel with bolts and caps and an engraved pattern at the top of the door. Two steel knockers will also be attached as handles for the door. A painted plaque will act as a transom above the door.

The Dharma Institute

The Dharma Institute is designed as a simplified version of the Temple as it is designed for function in mind without the grand symbols or relics. A variety of roof forms (flat and arched) are also proposed to provide for visual interest. The Institute measures 284' in length and 72' in width and therefore, has a long rectangular feel to the elevation. The only relief from the building plane is the arched entry feature and entry door, which faces the Purple Lotus Temple and another arched feature facing the frontage with no entry door. The applicant has designed the entry in facing the Purple Lotus Temple rather than the

front of the site due to Feng Shui principals specifically whereby all the main entries are facing south for prosperity. Staff has conditioned the applicant to work with the staff to better articulate the proposed building plane, particular the elevation facing the main frontage of the property. The color, roof materials, and glazing will be identical to the Purple Lotus Temple.

Building Heights: The Purple Lotus Temple & The Dharma Institute

The proposed Temple is a large structure, measuring a total of 55,560 square feet while the Dharma Institute is proposed to measure 32,240 square feet. The Temple's highest point is fifty-eight feet, where a relic nine-foot wide pagoda and domed metal roof are proposed over the Main Hall portion of the building. The remainder of the building varies from 27' 6" to 42'. The Institute's highest point is 35' (due to the variety of roof pitches) while the remainder of the building measures 27' 6" in height. Both buildings do, therefore, exceed the height limit of 30 feet, particularly the 58 feet in height over the Main Hall of the Temple building and 35' due to the roof pitches for the Dharma Institute. Section 8-22201(b) allows places of public assembly in churches, schools, etc. to exceed height limits provided:

“...that these are located on the first floor of such buildings, and provided further, that for each one foot by which the height of such building exceeds the maximum height otherwise permitted in the district, its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the district.”

The rear yard requirement is 50 feet while the side yard requirements in this zoning district is 25 feet. The proposed height of 58 feet (the highest of both buildings) would therefore require setbacks of 53 feet for the side yards and 78 feet for the rear yard. The Temple is located 85 feet from both adjacent side property lines and has a 114-rear yard setback, therefore allowing the increased building heights as proposed.

Prayer Booths

Four structures, measuring eight feet by eight feet, and eight feet in height, are proposed on the project site. The Prayer Booths are proposed at the rear of the property and the remaining two are proposed in the side yards. The Prayer Booths will be part of a brick paved path that is proposed to circle the two main buildings providing users the opportunity the areas to walk, bow, and rest. According to the applicant, the Prayer Booth is designed for the practioner to recite their choice of sutra to fulfill one's particular needs. The materials of the prayer booth will consist of an alabaster colored stucco finish with shingle tiles. Metal windows and doors are also proposed. The Prayer Booths, an accessory structure will be constructed 10 feet away from the side property line and approximately 35 feet from the rear property line meeting setbacks for accessory structures.

Stupas

As mentioned earlier in the project description, four Stupas are proposed to be situated at the four corners of the site. The Stupas are designed to provide an opportunity for visitors and practioners to enjoy the tradition of Vajrayanna Buddhism. The project architect has advised that the Stupa will have various forms and directions (e.g. elements of life; earth, wind, fire and water etc.) and will also have different meanings and significance. The main purpose of the Stupas is to enshrine the sacred objects. The first basic function of the stupa is to keep the memory of the great teacher alive by providing a focal

point for commemorative activities. The second function of the Stupa is to serve to bond all practitioners who view the structure as a powerful instrument for spiritual transformation. The Stupas will be made of concrete and are normally white in color. Staff will work with the applicant during the Development Organization Process to ensure that the height meets the zoning regulations for accessory structures which is 12 feet.

The Perimeter Wall & other Fencing

A six-foot high perimeter wall will be erected along portions of the front property line and the western property line. Portions of the barrier wall were required as part of mitigation measures outlined in the Noise Study near the frontage of the site only, but the applicant is also proposing to have the wall extend along the western property line. The wall is proposed to be decorated with the names of the Buddha both in Chinese and English to encourage visitors and practitioners to read the Holy Name of various Buddha. According to Buddhist tradition, merit is gained by reciting Buddha's name even if it is read unintentionally. An example of the language proposed to be depicted on the wall can be found on Sheet A-2 of the plan set. Auspicious signs, please refer to Sheet A-2 for details, are also proposed to be attached on the perimeter wall facing the street and the empty lot facing Union City. The applicant is required to work with the City of Union City and receive approvals for the proposed mantras and auspicious signs along the western property line since it will face Union City. Staff is supportive of the use of the mantras and the auspicious signs along Fox Avenue as long as the wording used does not advertise the Purple Lotus Society, as the mantras and auspicious signs can be considered art or decoration.

As shown on the plans, the applicant is proposing to place a Buddha above each column along the perimeter wall and a light feature. The applicant cannot provide staff with details, colors, and materials of each Buddha since they will be donated to them after the Temple is constructed. A condition of approval is added requiring the applicant to work with staff on the design, color, size and placement of each Buddha as well as the proposed light feature. The applicant will also be required to work with the City of Union City and receive approvals from them for the proposed Buddha(s). A condition of approval has been added to state that the lighting shown on the plans along the perimeter wall is not approved. The applicant has agreed to this condition.

The applicant is proposing a chain-link or tubular steel like fence that will keep an open view toward the natural surroundings, in particular the Quarry Lakes Regional Park. East Bay Regional Park has requested that the applicant keep an open style fencing along the southern and eastern property line. Although staff agrees with the request, staff would like to work with the applicant and East Bay Regional Park to develop a more attractive open style fence such as wrought iron, without any bulky columns.

Open Space/Landscaping:

The proposed site design is approximately 29% landscape area and therefore, exceeds the minimum requirement of 25% for religious facilities. There are no existing trees on the property. There are approximately 262 - 24" box trees proposed for the site along with hundreds of large and medium sized shrubs and a variety of ground covers. The design includes approximately twelve (12) London Plane trees along Fox Avenue; twenty-five (25) Chanticleer Pears and Chinese Pistaches in the main entry plaza area and site entryways; forty-eight (48) canopy trees for the proposed parking lot areas including Pink Idaho Locusts, and Maidenhair varieties; sixty-nine (69) vertical accent trees along the meandering

walkway along the perimeter of the site and distinct mounded planting areas throughout the property; thirty-two (32) flowering trees, such as Crape Myrtles and Flowering Plums along the perimeter of both buildings; and finally, seventy-six (76) conifers such as Canary Island Pines and Coast Redwoods scattered throughout the site. Large and medium shrub varieties include: Black Stem Pittosporum, Fern Pine, Glossy Abelia, Pink Breath of Heaven, Lantana, New Zealand Flax, Dwarf Heavenly Bamboo and Chinese Fringe Flower to name a few. Sod areas are proposed to be Dwarf 'Bonsai' Fescue.

The design also incorporates interlocking accent pavers (indicated as Belden Scarlet on the material board) for the pedestrian walkways, main vehicle entrance to the site, and the main entry plaza area. The outdoor activity and main entry plaza areas are proposed to be concrete. Staff will work with the applicant during the Development Organization process to insure that the colored pavers and concrete areas are consistent with the intent of the plan. All landscape features will be reviewed for conformance with applicable building codes and landscape policies during Development Organization review.

Circulation:

The project site is located along Fox Avenue, which is a private frontage road along the BART tracks. Fox Avenue connects to the public right-of-way via an intersection with Alvarado-Niles Road in Union City. The intersection is approximately 700 feet northwest of the project site. Both pedestrian and vehicular traffic will access the site from Union City, along Fox Avenue.

Two proposed driveways along the Fox Avenue frontage, one in the northwest corner and one in the northeast corner, provide for vehicular ingress to and egress from the site. Alongside each driveway, pedestrian walkways will connect to the on site pedestrian pathway system. The drive aisles and parking loop around the site along the east, south, and west sides of the site, with a connector drive aisle between the Temple and the Dharma Institute.

The on site pedestrian pathway system includes typical six-foot wide sidewalks in front of the parking stalls that surround both the Temple and Dharma Institute. Additionally, the project proposes a perimeter walkway that connects various prayer booths and statues. This perimeter walkway is used as part of the worship activities of the Temple.

Street Improvements: Fox Avenue is an existing private street within land owned by BART. The project site was approved with the final map for Tract 6095 in 1992. The subdivision consisted of five lots for residential uses and one private street lot, known as Trailside Terrace. The subdivider of Tract 6095 did not develop the residential project and did not sell any of the residential lots, although the subdivision improvement plans were completed as required for final map approval. The subdivision improvement plans included street improvements along Fox Avenue, as well as for the private street Trailside Terrace.

The applicant purchased the property with the intent of developing a temple and religious institute, which is not consistent with the previously approved final map for Tract 6095. Therefore, the applicant will seek approval of a new tentative parcel map to revert the previously approved final map to acreage, thus creating just one large lot. The tentative parcel map for reversion to acreage is pending, subject to the approval of the proposed conditional use permit. Although the originally approved use is no longer proposed, street improvements to Fox Avenue are still required. The following describes the required street improvements for the project:

Fox Avenue shall be improved with a minimum pavement width of twenty-four feet and shall be posted for no parking. Along the project frontage, curb, gutter, two driveways, sidewalk and a landscape strip with street trees shall be installed. Street lights, fire hydrants, storm drains, and other utilities will also be installed. Street improvements within the City of Fremont shall be subject to review and approval of the City Engineer.

The portion of Fox Avenue within Union City shall also be improved. The required improvements include a minimum pavement width of twenty-four feet, curb, gutter, sidewalk, street lights, and utilities. The improvements within Union City are subject to review, approval, and permitting by the City of Union City. The developer shall receive the necessary permits from Union City prior to receipt of permits from Fremont.

Grading & Drainage:

The 5.5-acre project site is a vacant. The site is bounded on the north by Fox Avenue, a private street within property owned by BART. To the east and south is the East Bay Regional Park District's Quarry Lakes Park. The western boundary of the site is the city limits between Fremont and Union City. The adjacent parcel to the west is owned by the State of California.

The project site is basically flat, with existing surface elevations that vary between 48 and 50 feet. Grading for the project will consist of creating building pads for the Temple and Institute and the grading necessary for the drive aisles and parking lot. The project design proposes balanced grading, with no import or export of soil. The project civil engineer estimates grading quantities to be 3,800 cubic yards of cut and 3,240 cubic yards of fill, with the difference being 560 cubic yards of shrinkage. Because total grading exceeds 1,000 cubic yards, the applicant has submitted a Preliminary Grading Plan for review and approval by Planning Commission.

Drainage: The nearest public storm drain is Alameda County Flood Control & Water Conservation District (ACFC & WCD) Line N-12, an existing 54-inch storm drain approximately 300 feet east of the project site. The project proposes to connect to Line N-12 with a new private storm drain installed in Fox Avenue. The connection to Line N-12 is subject to review, approval, and permitting by ACFC & WCD.

The on-site storm drain system consists of a series of field and curb inlets connected with underground pipes. In order to comply with the countywide municipal stormwater permit requirements, the project proposes to install an underground storm water treatment unit in the northwest corner of the site. The storm drain system, including all integrated storm water treatment devices, will be subject to review and approval of the City Engineer and Alameda County Flood Control and Water Conservation District.

Urban Runoff Clean Water Program: The project is required to comply with the City's Urban Runoff Clean Water Program, which includes compliance with the Alameda Countywide National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit. The current countywide permit was re-issued in February 2003 and includes specific quantitative storm water treatment requirements for projects deemed complete before February 2005. These quantitative requirements include demonstrating certain volume or flow of storm water runoff is cleaned of pollutants before the runoff is discharged to the public storm drain.

The project was submitted and deemed complete prior to February 2005; therefore the project could be exempted from the quantitative treatment requirements. However, staff chose to require that the on-site

storm water treatment comply with the quantitative requirements. The project has been conditioned to comply with the NPDES permit requirements. The applicant did not oppose this requirement and has prepared the plans accordingly.

Storm Water Treatment Device: Instead of, or in addition to, an underground storm water treatment device, staff encouraged the applicant to integrate landscaped based storm water treatment measures (bio-swales) and permeable pavement technology, as additional site design elements to comply with the NPDES permit. The applicant does not want to integrate bio-swales into the project landscape design because the applicant feels landscaped based treatment is incompatible with the religious uses planned throughout the site.

Storm water treatment is an evolving science. New, improved, and varied treatment technology is constantly being introduced as more and more projects must comply with regional and national clean water requirements. Staff has included a condition requiring the applicant and design team to continue to work with staff to integrate the best available storm water treatment into the project design.

Applicable Fees:

Development Impact Fees: The proposed development project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, park facilities, capital facilities, park dedication-in-lieu and traffic impact. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

Environmental Review:

An Initial Study and Draft Mitigated Negative Declaration, has been prepared for this project. The environmental analysis identified concerns regarding potential impacts to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hydrology and Water Quality and Noise. The Draft Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. A more detailed description of the potential impacts and mitigation measures are provided within the Initial Study for the project, which is included as an enclosure.

Mitigation measures

Mitigation measures pertaining to: air quality impacts such as dust suppression measures; protection of biological resources such as burrowing owls and loggerhead shrikes; standard water pollution and erosion control measures following Best Management Practices, noise barriers to reduce sound levels in interior and outdoor use areas have been developed. In addition, a Mitigation Monitoring Program is recommended for adoption in order to ensure implementation of mitigation measures.

Please note that an error was made in the Initial Study and Mitigated Negative Declaration regarding the proposed sizes of the two main buildings. The Purple Lotus Temple is actually proposed to measure 55,560 square feet rather than the 87,960 square foot size described in the environmental document. The Dharma Institute is actually proposed to be 32,240 square feet rather than 55,274 square feet.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of one hundred eighty-six (186) notices were mailed to owners and occupants of property within 1000 feet of the site. The notices to owners and occupants were mailed on June 15, 2006. A Public Hearing Notice was published by The Argus on June 15, 2006.

Last year, prior to the scheduled Planning Commission meeting on June 9, 2005, staff received a number of e-mails in opposition of this project primarily based upon the proposed architecture and traffic concerns. In addition, various departments from the City of Union City requested that they have an opportunity to work with the applicant to revise the existing easement agreement pertaining to the access to the subject property. The item was continued to a date unspecified to allow time for the applicant to work with the community and with the City of Union City. Since then, the City of Union City and the Purple Lotus Society have agreed on terms to amend and replace the existing easement upon satisfaction of certain conditions and, in the meantime, to issue a license for the use of the private road entrance for the construction of the school and temple facility on the terms and conditions. The terms and conditions of the agreement include: the installation of a traffic signal at Alvarado-Niles Road and Fox Avenue; pay a traffic signalization fee prior to the building permit; installation of a sidewalk on Alvarado-Niles Road from Fox Avenue to Osprey Drive and pay public works inspection fees as well as a "bedroom tax". A copy of the agreement can be found in the Planning Commissioner's packets as an informational item. The City of Union City is supportive of this project and has not requested to add any conditions of approval to the project apart from this agreement.

Subsequent to the receiving the comments from the community, the Purple Lotus Society mailed a flyer to the same 186 owners and property owners and invited them to a neighborhood meeting on Thursday, June 1st, 2006 at the Purple Lotus Buddhist School Cafeteria located at 33615 9th Street, Union City. One family attended the meeting and was generally positive about the project. Last year, the applicant also held a neighborhood meeting, inviting property owners and tenants of structures located within 1000' from the project site, on April 22, 2005 from 7:30pm to 8:30pm. The meeting was held at the Purple Lotus University cafeteria in Union City. One neighbor attended the meeting and provided comment to the applicant. During report writing, staff has not received any comments from the public.

San Francisco Bay Area Rapid Transit District: Currently, the Purple Lotus Society possesses an easement for the purpose of construction, maintenance, repair and replacement of a private road over and across BART property along Fox Avenue, a private street, located both in City of Union City and the City of Fremont, from Alvarado-Niles Road to, and fronting, the Purple Lotus Temple's subject property. The current easement permits the construction of curbs, pavement, sidewalks and other roadway improvements. On August 8, 2005 staff received a letter from Les Freligh, a District Real Estate Surveyor representative from Bay Area Rapid Transit which states that the BART staff "*does not foresee any problem in granting additional easement over the same area that would allow: the installation and maintenance of public utilities, private utilities, gates, signs, landscaping and emergency vehicle ingress and egress (i.e. – appurtenances to the original easement).*" Therefore, BART is supportive of this project.

ENCLOSURES:

Exhibits:

- Exhibit "A" Mitigated Negative Declaration & Mitigation Monitoring and Reporting Program
- Exhibit "B" Site plans, elevations, and floor plans, landscape plan and renderings
- Exhibit "C" Preliminary Grading Plan
- Exhibit "D" Findings & Conditions of Approval – Conditional Use Permit
- Exhibit "E" Findings & Conditions of Approval – Preliminary Grading Plan

Informational Items:

1. Initial Study
2. Applicant justification statement
3. Noise study, biological assessment and traffic study
4. Letter from San Francisco Bay Area Rapid Transit District dated August 8, 2006.
5. Copy of license agreement between the City of Union City and the Purple Lotus Temple.

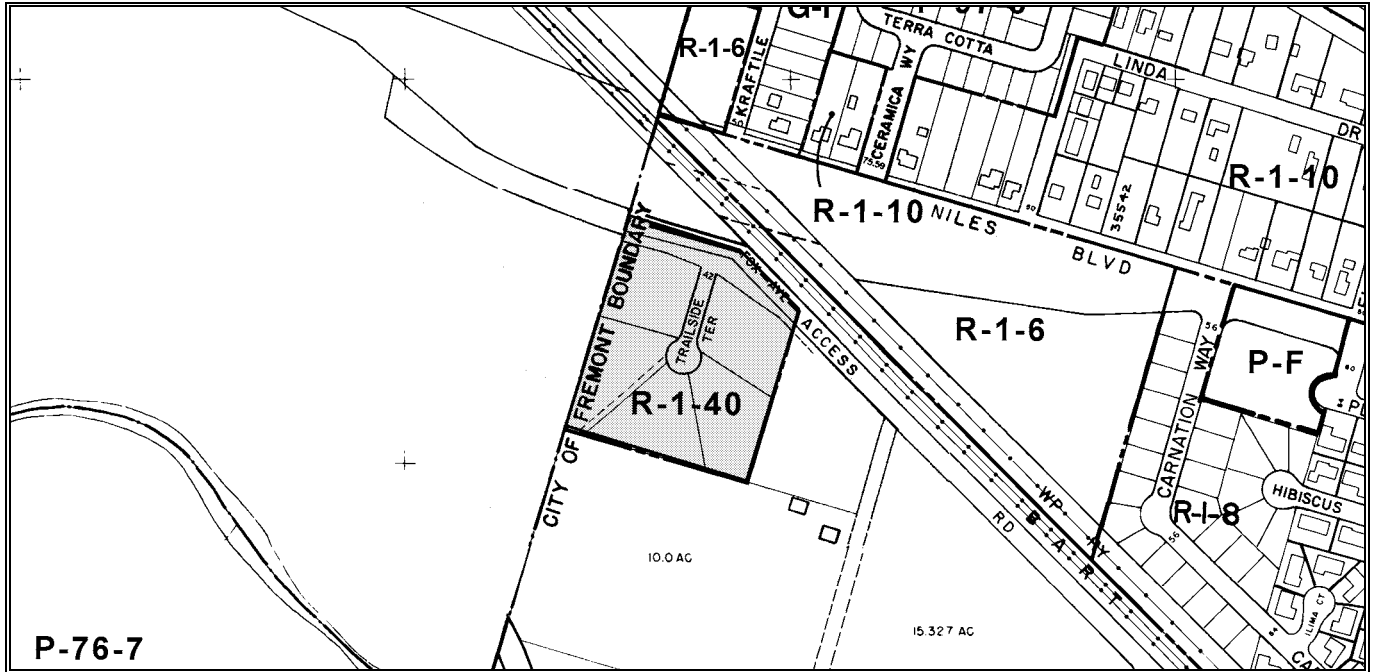
Supplemental Hearing Materials:

1. Color and Material Board

RECOMMENDATION:

1. Hold public hearing.
2. Adopt the Draft Mitigated Negative Declaration for the project finding that there is no substantial evidence that the project as mitigated will have a significant effect on the environment and further finding that this action reflects the independent judgment of the City of Fremont.
3. Approve a Mitigation Monitoring Plan for the project (Exhibit "A").
4. Find that the proposed project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use Chapter as enumerated within the staff report. The project conforms to the goals and policies as enumerated in the staff report and Findings Exhibit adopted/recommended herewith.
5. Approve PLN 2003-00313 as shown on Exhibit "B" (Site plans, elevations, floor plans, landscape plan, and renderings) and Exhibit "C" (Preliminary Grading Plan), subject to findings and conditions identified in Exhibit "D" and Exhibit "E".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan
Shaded Area represents the Project Site



Exhibit “D”
PURPLE LOTUS
CONDITIONAL USE PERMIT
Findings and Conditions of Approval
(PLN2003-00313)

FINDINGS:

1. The use is consistent with the General Plan designation for the site; since the land use, a religious facility, is conditionally permitted on property designated Residential on the General Plan.
2. The site is suitable and adequate for the proposed use because the religious facility operation conforms to ordinance requirements of the R-1-40 zoning district and is subject to conditions of approval that will ensure the use does not have an adverse impact on the site or surroundings.
3. The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services because all roadway improvements adjacent to the project site have been completed or will be completed with this project, and the site will generate limited traffic due to the unique nature of the use and restrictions on ownership of cars by dormitory residents. Sufficient parking is provided, points of ingress-egress are properly located and adequate fire fighting equipment access and facilities are available.
4. The estimated economic effect of the proposed use on nearby uses is not adverse because the site is currently vacant and based on historical research; the site has never been developed, and is zoned for residential development. There has been no apparent adverse effect to date, and none foreseen with the establishment of a religious facility in this area.
5. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood, or the community at large because the religious institution use is properly regulated with adequate parking and the use will generate limited traffic due to the unique nature of the use and restrictions on ownership of cars by dormitory residents, and would not create nuisances due to limited hours of activities, or degrade the environment because a large percentage of the site will be landscaped, and is designed to limit impacts on surrounding residents based on review of external lighting and large set backs.
6. The design of the project is compatible with existing and proposed development in the district and its surroundings because the proposed project is designed to be compatible with nearby recreational uses by keeping open fencing facing Quarry Lakes and transportation uses by installing perimeter walls where needed to mitigate against noise. Because the project will add interesting and architectural forms to an undistinguished unimproved vacant field, its aesthetic impacts may be considered positive. No shadowing or impacts on privacy would occur with respect to neighboring residential properties.

7. All public improvements or facilities required as a part of this approval are directly attributable to the proposed development, and are required for reasons related to public health, safety and welfare.
8. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project has been reviewed by the different utility agencies each indicating the ability to provide service capacity. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed.

CONDITIONS

The following “On-going Conditions” conditions will be specifically identified in the Conditional Use Permit Certificate issued by the Planning Director.

On-going Conditions:

1. The approval of PLN2003-00313 shall conform to Exhibit “A” (Site Plan, Floor Plans, Elevations, Landscape Plan, Renderings), Exhibit “F” (material and color board) and all the conditions of approval set forth herein.
2. This Conditional Use Permit, entitles the construction of two principal buildings described as: Purple Lotus Temple measuring approximately 55,560 SF and the Dharma Institute measuring approximately 32,400 SF.
3. The facility operator, Purple Lotus Society, or successor, is required to provide transportation to its monks, volunteers and apprentices. The Purple Lotus Society, or successor, shall not exceed occupancy projections (as described below). Changes in use or vehicle policies which create increased parking demand which exceed available parking on site is subject to review by the Director of Development and Environmental Services who may require mitigation measures as provided in the Fremont Municipal Code.
4. The hours of operation for the Purple Lotus Temple are 9:00 am to 6:00 pm on Mondays to Fridays and 10:00 am to 4:00 pm on the weekends, plus group practice will occur on Saturday night between 8:00 pm to 10:00 pm. The Temple will also host various praying ceremonies 3 to 4 times a month. The proposed activities will include meditation sessions, annual purification rituals, praying and blessing ceremonies (twice a year), group practice (purification, enrichment, subjudication, and attraction), fire offering ceremony and water offering ceremonies. Currently 100 to 125 followers participate in the praying ceremonies and according to the applicant the Temple has no intention of increasing the frequency of either the ceremonies or the amount of people. The applicant anticipates 20 to 40 visitors per day.
5. The applicant is permitted to construct dormitory spaces (40 single and family rooms) for a maximum capacity of overnight stays of 120 persons (monks, volunteers and guests). A total of 27 monks, who would be using the dormitory spaces, are projected by the year of 2007.

Overnight guests are allowed only during annual ceremonies held in February / March or September / October. Twenty-five guests are anticipated during each of those times. The Temple quarters are intended to provide shelter for the monks, volunteers and apprentices who would be living on site during the study of the TBS practice. The applicant will not allow these particular monks, volunteers and apprentices to own any kind of motor vehicles.

6. A maximum capacity totaling 150 persons will be allowed in the Main Hall, water ceremony hall, the other halls (protector, purification, enrichment, spirit and fire) and cafeteria at the same time. Based on Buddhist tradition, the applicant will not allow two Masters or two different types of praying / rituals to be held simultaneously. Therefore, the dedicated special halls, which are all smaller than the Main Hall, are never used at the same time and only one dedicated room is chosen for the main purpose of the ceremony. According to the applicant, the Main Hall is dedicated to show the basic ceremony / ritual of TBS and is intended to present the rich culture amenity of Vajrayana through statues and hand painted drawings.
7. The Dharma Institute is designed for future monks and apprentices so they can study under the direction of the Master and Grand Master Lu. The hours of operation for the Dharma Institute are 7:30 am to 6:00 pm on Mondays to Fridays and by appointment only during the weekend.
8. The maximum numbers of students that will be allowed are 250 with only 50 students residing on the site. Once a month, the Purple Lotus Society will provide community oriented programs with a maximum of fifty attendees at a time.
9. The Dharma Institute will consist of classrooms (nineteen in total), associated restrooms, offices, and a café, as well as twenty additional dormitory spaces (single and family suites). One multi-purpose room for indoor sport activities (such as badminton, volleyball and basketball), community oriented programs and student performance is also proposed for a maximum occupancy of 300 people.
10. Major modifications or additions to the buildings would require an amendment to the Conditional Use Permit subject to Planning Commission review. Use of the facilities other large events (not described in the staff report) are subject to Planning Commission review to establish guidelines for such operations.
11. Minor revisions of the site plan, building location, and architectural details may be permitted within the overall context of the approved design concept, subject to the approval of the Planning Director during the Development Organization review process.
12. The applicant shall submit appropriate plans to the Development Organization for review to ensure compliance with all City codes and policies. Any changes or modifications required through the Development Organization review process shall be incorporated into the project.

General conditions:

13. The applicant will be required to continue to work with East Bay Regional Park, Bay Area Rapid Transit (BART) and the City of Union City and receive associated approvals from these agencies prior to release of a building permit.

14. The project shall be subject to City-wide Development Impact Fees. These fees may include fees for fire protection, park facilities, capital facilities and traffic impact. These fees shall be calculated at the rate in effect at the time of building permit issuance.
15. Pursuant to Fremont Municipal Code, Section 8-9600, a park dedication in lieu fee is required for the proposed residential dormitory component of the development. The fee per unit shall be as set forth in the City's Master Fee Resolution in effect at the time of building permit issuance.
16. The final design, layout, and construction of the proposed development shall conform to the Security Ordinance, No. 2007, as amended, including a lighted street address and appropriate security measures, subject to the review and approval of staff during the Development Organization review process.
17. If signs are proposed, building sign permits shall be obtained, subject to the review and approval of the City's Plans and Permits Section.

PLANNING REQUIREMENTS

Mitigation Measures:

18. **Aesthetics – Mitigation #1:** The developer shall submit a lighting plan for illumination of the buildings and driveways. The type of lighting fixtures, their heights, intensity and direction shall be clearly indicated. Exterior lighting shall be diffused or concealed in such a way as to prevent the illumination of adjoining properties or the creation of objectionable visual impacts on other properties or streets.
19. **Air Quality – Mitigation #2:** During construction comply with the dust suppression measures set forth in the soil remediation plan approved by the County. Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage. Paving shall be completed as soon as is practicable to reduce the time that bare surfaces and soils are exposed. In areas where construction is delayed for an extended period of time, the ground shall be revegetated to minimize the generation of dust. Designate a person to oversee the implementation of the dust control program. During construction, streets adjacent to the project site that are used by construction vehicles shall be swept periodically to reduce dust. Implementation of the above-stated mitigation measures will reduce the identified air quality impacts to a non-significant level.
20. **Biological Resources – Mitigation Measure #3:** The project proponent shall employ a qualified ornithologist to conduct a pre-construction survey for Burrowing Owls and Loggerhead Shrikes prior to any soil-altering activity, construction or economic development occurring within the project area, regardless of the time of year in which the activity occurs, and shall implement mitigation as indicated by the ornithologist, according to California Department of Fish and

Game guidelines. Current Fish and Game guidelines provide that the survey shall be conducted no more than 30 days prior to the start of the site grading and that if the ornithologist finds no Burrowing Owls or Loggerhead Shrikes within 75 m (246') of the project impact area, no further mitigation would be required; but that, if breeding Burrowing Owls or Loggerhead Shrikes are located within that distance, a construction-free buffer zone around the active burrow must be established as determined by the ornithologist in consultation with Fish and Game. No activities, including grading or other construction work or evictions of raptors shall proceed that may disturb breeding raptors.

21. **Biological Resources – Mitigation Measure #4:** In addition, if construction activity takes place between September 1 and February 1, the project proponent shall employ a qualified ornithologist to conduct a pre-construction survey for nesting native or migratory birds and, if any are found, to establish buffer zones consisting of pin flags placed in the ground between 10 and 250 feet from the construction site, depending on the species of concern. If burrowing owls are present, all work shall cease until the wildlife biologist has recommended appropriate actions to be taken to protect the owls. The applicant shall be responsible for the implementation of the protective actions, including relocation, prior to the commencement of any site work. The site investigation shall be subject to the approval of the Assistant City Manager.
22. **Cultural Resources – Mitigation #5:** Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5 (e) and (f) will be followed to reduce impacts to a non-significant level.
23. **Geology & Soils – Mitigation #6:** Implementation of appropriate erosion control measures during construction shall be implemented to minimize the amount of sedimentation leaving the project site and reduce the significance of such erosion.
24. **Hydrology and Water Quality – Mitigation #7:** Standard water pollution and erosion control measures following Best Management Practices will be implemented to prevent runoff and sedimentation from entering the channel. Emphasizing storm water Best Management Practices (BMP) intends to achieve compliance with the goals of the Alameda Countywide Clean Water Program (ACCWP), in conformance with the Federal National Pollutant Discharge Elimination System (NPDES) program established by the Clean Water Act.
25. **Noise – Mitigation Measure #8:** Provide noise barriers to reduce sound levels in the outdoor use areas on the northern side of the Dharma Institute. These barriers consist of walls 6 feet in height along the front property line, with 20-foot returns along driveways and pedestrian ways. The barriers shall be provided at the locations required in order to protect all areas adjacent to the front lot line that are planned for outdoor use as determined by the approving body.
26. **Noise – Mitigation Measure #9:** Provide interior noise mitigation for second-floor facades of the Dharma Institute adjacent to the BART line. This mitigation consists of mechanical ventilation, allowing windows to be closed, for all second-floor rooms of the Dharma Institute facing the BART line, and the use of sound-rated windows (initial estimated rating of STC 30 to 32).

Site Planning Requirements

27. The parking configurations and dimensions shall conform to the City's standards and ordinances and shall be reviewed as part of the Development Organization review process.
28. All lighting associated with the project area shall be subject to staff review and approval during the Development Organization review process, and shall be of a pedestrian scale along the walkways. No exterior lighting shall be permitted except that which has a concealed source, subject to the review and approval of staff during the Development Organization review process; and exterior lighting facing Union City will also be subject to review and approval by the City of Union City. The lighting shown on the plans along the perimeter wall is not approved.
29. The final siting of the trash enclosure shall be subject to staff review and approval during the Development Organization review process.
30. All mechanical equipment, such as backflow preventers, shall also be located so as not to be visible from any public or private right-of-way, subject to staff review and approval during the Development Organization process..
31. Final wall details and fencing shall be required prior to issuance of the building permit. The applicant will be required to work with the City of Union City and the City of Fremont on the wording used for the mantras, auspicious signs, and Buddha statues proposed on the perimeter wall. The use of lighting along the perimeter wall is not approved. The applicant will continue to work with the East Bay Regional Park and the City of Fremont on developing a design scheme with specific criteria for the perimeter fencing proposed at the rear of the project site and along the eastern section of the project site (facing the EBRP property).
32. All accessory structures such as the Stupas and Prayer Booths will be reviewed during the Development review process for conformance with setback requirements, height restrictions, architecture, use of materials and color.

Building Design Requirements

33. All mechanical equipment (i.e. air conditioning units or similar) shall be screened from view from adjacent public and private rights-of-way, on-site parking, and neighboring residential properties.
34. Final building design, colors and materials shall be consistent with Exhibit "A" & Exhibit "B" (Site Plan & Elevations) and Exhibit "F" (Color and Material Sample Board), subject to final staff review and approval during Development Organization process.
35. The applicant shall work with staff on defining architectural details and materials, and on the final choice of colors as well as providing additional modulation for the Dharma Institute.

During construction and grading

36. Construction activities shall be limited to the following hours of operation:

7 a.m. to 6 p.m. Monday through Friday
9 a.m. to 6 p.m. Saturday
No construction on Sundays

Failure to comply with the above-described hours of operation may result in the suspension of building inspections.

37. The applicant shall notify Planning staff of the construction schedule. At the time of installation of framing and prior to stucco/siding, the applicant or a representative of the applicant, shall request an on-site inspection by the project planner, to ensure compliance with the architectural detailing of the buildings.

LANDSCAPE REQUIREMENTS

38. A landscape plan shall be submitted to the Development Organization for review and approval, indicating full details regarding (1) paving materials and textures of walkways, (2) lighting of walkways and driveways with low intensity non-glare type fixtures, (3) screening of driveways and parking areas, and (4) landscaping of site and parkway areas. As part of the landscape plan the applicant shall submit to the Development Organization:
- a. An underground irrigation plan.
 - b. Weed control specifications.
 - c. A lighting plan for the illumination of the building, driveways and parking areas. Type of lighting fixtures, their heights, intensity and direction shall be clearly indicated.
 - d. Construction details of raised planters, walkways, paths, benches, walls, fences, trellises, and other architectural features as appropriate.
39. Branches from mature trees may not overhang buildings and roofs. Adequate space to plant trees adjacent to buildings must be provided in the following minimum ways:
- a. Small trees (to 15 feet tall) no closer than six feet from building with a minimum planting area 5 feet wide.
 - b. Medium trees (to 30 feet tall) no closer than ten feet from building with a minimum planting area 6 feet wide.
 - c. Large trees (above 30 feet tall) no closer than 15 feet from building with a minimum planting area 6 feet wide, preferably 8 feet wide.

40. All street trees shall be 24-inch box size.
41. All locations on Exhibit "B" within common areas that show a special paving pattern shall be concrete pavers.
42. All walls shall be designed, detailed, and finished to be compatible with the proposed architecture of the project. All walls shall be heavily landscaped (on both sides if applicable), except areas which will have mantras and auspicious signs. This may include vines, shrubs, and trees to minimize their visibility and to help prevent graffiti, subject to staff review during the DO process.
43. The height and location of fences and walls shall be reviewed for conformance with Zoning Ordinance requirements and compatible design during the Development Organization review process. The applicant shall work with staff to refine the details of fencing and other architectural details as necessary through this process.

ENGINEERING REQUIREMENTS

44. A tentative parcel map application, for the reversion to acreage, shall be submitted for Planning Commission review and approval, and may be subject to modifications at the time of review. The reversion to acreage final map must be approved prior to issuance of building permits for the project.
45. The developer shall install complete street improvements for the private street Fox Avenue along the entire site frontage and off-site to the intersection at Alvarado-Niles Road in Union City. The required street improvements include, but are not limited to, installation of pavement, curb, gutter, sidewalk, driveways, street trees, street lights, fire hydrants, storm drains, and other utilities. The project is also required to install complete street improvements for that portion of Fox Avenue in Union City, between the project site and the intersection of Alvarado-Niles Road. The private street improvements within Union City are subject to review, approval, and permitting by the City of Union City.
46. The applicant shall receive all necessary easements, permits, and approvals, from the City of Union City, Bay Area Rapid Transit, Alameda County Flood Control and Water Conservation District, Union Sanitary District, and Alameda County Water District, prior to issuance of building permits or approval of the final map.
47. The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order R2-2003-0021, NPDES Permit No. CAS0029831. In particular, the project plans shall include measures to demonstrate compliance with permit section C.3.d, Numeric Sizing Criteria for Pollutant Removal Treatment Systems. The project civil engineer shall include stormwater treatment hydraulic calculations with the first plan submittal for building permits.
48. In accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order R2-2003-0021, NPDES Permit No. CAS0029831, the property owners shall enter into a

maintenance agreement for the long-term operation and maintenance of on-site stormwater treatment measures. The agreement shall be recorded and run with the land.

49. The project storm drain design, both on-site and off-site, shall be subject to review and approval of both the City Engineer and the Alameda County Flood Control and Water Conservation District.
50. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
51. The property owner is responsible for litter control and for sweeping of all paved surfaces. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.
52. All storm drain inlets are to be stenciled "No Dumping - Drains to Bay" using thermoplastic stencils purchased from the City of Fremont Maintenance Division. Alternative inlet stencils or marking may be permitted, subject to City Engineer approval during building permit or final map and subdivision improvement plan checking.
53. All on-site storm drains are to be cleaned prior to building occupancy and also be cleaned each year immediately before the beginning of the rainy season (October 15). The City Engineer may require additional cleaning.
54. All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution.

FIRE REQUIREMENTS

55. The applicant shall meet all requirements in the 2001 California fire code and all local amendments to that code in Ordinance #2485.
56. The applicant shall provide the occupancy class/use of all areas and provide occupant loads too. The applicant shall provide a civil utility plan sheet with the locations of all existing and proposed fire hydrants. The plan sheet shall also have the location of the fire department connections for Automatic fire extinguishing system(s)
57. The applicant shall install an automatic fire sprinkler system in the building for fire protection purposes. Waterflow and control valves must be monitored by a central alarm monitoring system and Central Station. The monitoring system shall have a smoke detector placed over the fire panel, a pull station, and an audible device located in a normally occupied location.

58. Plan, specifications, equipment lists and calculations for the required sprinkler system must be submitted to the Fremont Fire Department Authority and Building Division for review and approval prior to installation. A separate plan review fee is required. Standard Required: N.F.P.A. 13
59. Automatic fire suppression systems in all group R-1 occupancies shall have Residential or quick response standard sprinkler heads in dwelling or guest portions of the building. The sprinkler system shall provide protection to at least all of the following areas garages, carports, bathrooms, concealed spaces, water heater closets, laundry rooms attic spaces, under walks, or overhangs, balconies or deck greater than four feet in depth, and floor landings if wholly or partial enclosed, or other areas as required.
60. All Automatic Fire Suppression Systems Fire Department Connections shall have the following installed/provided
 - a) Address placard installed at the connection.
 - b) Knox Cap installed on every inlet.
61. Prior to installation, plans and specifications for the underground fire service line must be submitted to the Fremont Fire Authority and Building Department for review and approval. Please include cathodic protection or soils report stating why protection is not required. Standard Required: N.F.P.A. 24 and N.F.P.A 14
62. The applicant shall provide the Fremont Fire Department with a site plan/ Civil Utility Plan for approval of public and on-site fire hydrant locations.
63. The applicant shall comply with Fremont code requirements for installation of fire retardant roof coverings.
64. The applicant shall provide all weather surface (paving) for emergency vehicle access within 150 feet of all construction or combustible storage. This access shall be provided before any construction or combustible storage will be allowed. CFC 902.2.1.
65. The applicant shall provide required fire flow (hydrants) on site prior to construction or storage of combustible materials. C.F.C 903.2 & Appendix IIIA. Fire hydrant jumper lines must be at least 6 inches in diameter. This must be completed and inspected before any construction or material storage will be allowed.
66. The applicant shall have a key box (Knox brand) located outside of building/gate and provide keys to the Fire Department so they may gain access. Vehicle gates may use Knox lock or keyed over-ride switch. Gate shall also have a infrared receiver installed. Application can be obtained at Fire Administration office, 3300 Capital Ave, Fremont.
67. The applicant shall install Fire alarm system as required. The system must be monitored. The system must be N.F.P.A. 72 compliant and have an interior audible device per the C.F.C. Upon completion a "UL" serial numbered certificate shall be provided at no cost to the City of Fremont

Fire and Life Safety Inspector. Fire alarm systems devices shall be addressable and report to the Central Monitoring Station addressable.

68. Address must always be visible from the private street.
69. Any/all new street names and addressing shall be approved by the Fire Department / GIS Department.
70. A driveway access serving one dwelling/structure shall have a minimum 20 foot unobstructed width driveway/access road. The access road must provide all portions of the first floor with the required 150 feet access to the rear of the building. A driveway/ access road serving two or more dwelling/structures shall have a minimum 20 foot unobstructed width. A driveway access serving three or more dwelling/structures shall have a minimum 20 foot unobstructed linear width. These driveways/access roads shall be designated as Fire Lanes. Driveway /access roads and shall meet Fire Department standards for distance, weight loads, turn radius, grades, and vertical clearance. Approved turnarounds shall be required for distances over 150 feet from public streets. Other mitigation's shall/may be required in addition to those listed. (CFC Sec. 902.2 as amended)
71. Gates across Fire Department access roads shall have a minimum 15-foot clear, unobstructed linear width and a clear vertical height of 13 feet 6 inches. All locking devices shall provide for Fire Department emergency access with Knox box, lock or over –ride switch. (CFC 2000, Sec. 902.2.4 & 902.2.1.)
72. Fire Department connections for all sprinkler system must be located not more than 100 feet from a fire hydrant. N.F.P.A 14. All inlets shall have Knox type caps installed.
73. Fire hydrant spacing requirement is 300 feet. The distance is measured as the fire engine travels on all- weather surfaces.

ENVIRONMENTAL SERVICES REQUIREMENTS

Solid Waste Requirements:

74. Municipal solid waste (MSW) collection service is required for all commercial and residential properties, and is provided by Browning Ferris Industries (BFI) on an exclusive franchise basis. Contact BFI at (510) 657-3500 to arrange for service.
75. Frequency of solid waste collection service will depend on the number and size of containers. Minimum requirements are once a week for garbage and once a week for recycling.
76. This project will generate recyclable debris, including cardboard, wood, scrap metal, drywall, asphalt or concrete. This material shall be recycled through a company licensed to do business in Fremont. Large concrete debris, broken pavement, trees, etc. should be separated for recycling and not mixed with solid waste

77. All new construction applications for structures of 3,000 square feet or more must meet the **Requirements for Demolition, Remodeling and Construction Permits**. These are included in the COF **Waste Handling Requirements**.
78. Green waste (plant debris) should **not** be mixed with other wastes. Organic material and wood waste may be chipped on site or taken to a grinding/composting facility such as the Tri-Cities Recycling and Disposal Facility. Contact TCRDF at (510) 624-5910.
79. The property owner is responsible for contracting with recycling service providers through a company licensed to do business in Fremont for regular pickup of recyclable materials and landscaping debris. Landscaping debris may be chipped and/or composted and reused onsite, hauled by a landscaping contractor to a compost or mulching facility, or kept separate from trash for collection by a hauling company that takes the material to a composting or mulching facility.

Enclosure Requirements:

80. Commercial, industrial, and multi-family residential buildings must have roofed enclosures for solid waste and recycling containers. All trash enclosures shall conform to the Enclosure Construction and Design Guidelines provided by the Environmental Services Division.
81. Trash and recyclables enclosure areas shall be maintained free of litter and other undesirable materials. Trash, recyclable materials, and landscaping debris must not be allowed to accumulate such that a visual or public health nuisance is created.
82. Drains in trash enclosures shall not discharge to the storm drain system, and must connect to the sanitary sewer system.
83. The external trash/recycling storage area(s) within this development should be within 250 feet of each occupied building.

Other Requirements:

84. Prior to beginning demolition, remodeling or construction on this project, the applicant shall submit to the Environmental Services Division a COF **Waste Handling Plan** for managing all expected construction and demolition debris. Environmental Services supplies this form, or a Plan may be submitted in any format that includes the following information:
- Contractor's name, address, and telephone number
 - Project location and/or street address
 - Anticipated start and completion dates of the project
 - A list of debris materials the applicant expects to generate (e.g., glass, wood, metal, drywall, concrete, or bricks), the estimated total tonnage or volume of material, and whether it is to be salvaged, reused, recycled or disposed
 - Estimated total cost of waste disposal and recycling.

85. After completing the demolition or construction project, the contractor shall submit a COF **Waste Disposal & Diversion Report** to Environmental Services on actual tonnages or volumes disposed and recycled for the project, and the actual cost of disposal and recycling. Environmental Services supplies this reporting form.
86. The applicant may contract with any company licensed to do business in Fremont for collection, storage and hauling of contractor-separated construction materials for salvage or recycling. Separated material destined for recycling may not contain more than 10% by weight of solid waste or other non-recyclable material.
87. The contractor must insure that non-recyclable construction debris is removed from the site using means set out in the Fremont Municipal Code, including one or more of the following ways:
 - a. Removal from the premises by the construction contractor as part of a total construction, remodeling service offered by that contractor;
 - b. Placement of small amounts (less than 10% of the container's volume) of debris into the customer's existing trash container(s) with prior notice to the City's franchised waste hauler;
 - c. Contacting the City's franchised waste hauler to arrange for use of roll-off drop boxes or debris box containers with sufficient capacity to store all demolition materials to be landfilled.

End of Conditional Use Permit conditions

**Exhibit “E”
PURPLE LOTUS
Preliminary Grading Plan
(PLN2003-00313)**

FINDINGS

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Planning Commission dated June 29, 2006 incorporated herein.

1. The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance.
2. The proposed project described in the application will not endanger public sewers, storm drains, water courses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant will be required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
3. The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.
4. The proposed project described in the application will not result in geologic or topographic instability on or near the site. Based on geologic information available, the site is not in a special studies zone. There are no fault zones or evidence of slides on the site which might be aggravated by the grading of the development. A soil study will be done and submitted in conjunction with the Development Organization submittal.
5. Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished at time of final map. Supplemental data and substantiation of conclusions may be required by the public works director upon city review of the reports. The proposed development is not in any special studies zone nor is there evidence of presence of any fault or active slides per maps issued by the U.S. Geological Survey and the California Division of Mines and Geology.

CONDITIONS

1. The project shall conform to Exhibit “C” (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Conditional Use Permit PLN2003-00313.
2. Approval of this Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.

3. Approval of this Preliminary Grading Plan shall terminate 24 months from the date of approval by the Planning Commission, or approval shall run concurrent with the approval and subsequent extensions of a tentative map on the project site.
4. A grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.
5. The applicant shall provide for a functional system to control erosion and siltation during and after grading subject to review and approval by the City Engineer or Alameda County Flood Control and Water Conservation District. An erosion and sediment control plan shall be included as part of the grading plans.
6. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
7. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
8. Prior to issuance of a grading permit for land disturbance greater than one acre, the developer is to provide evidence that a Notice of Intent has been filed and with the State of California Water Resources Control Board. Evidence shall include the WDID number assigned by the State. The developer is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).
9. The applicant shall submit a detailed soils report, including recommendations regarding pavement structural sections, prepared by a qualified soils engineer registered by the State of California. The soils report shall include specific recommendations for on site pavement areas that will experience repeated exposure to heavy vehicle loads.
10. Grading operations shall be in accordance with recommendations contained in the required soils report and shall be supervised by an engineer registered in the State of California to do such work.
11. During Development Organization review the applicant shall identify the total amount of impervious surface area that will be generated by the development (roofs, parking lots, driveways, private streets, walkways, etc).

End of Preliminary Grading conditions